IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 22.12.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal No.479 of 2002

The Executive Officer,
Arulmigu Srinivasa Perumal
Thirukoil, Egmore, Chennai. ... Appellant/Respondent

Vs.

K.Kandhan .. Respondent/Petitioner

Writ appeal filed under Clause 15 of the Letters Patent against the order of this Court dated 21.12.2001 made in W.P.No.25710 of 2001.

[W.P.No.25710 of 2001 presented under Article 226 of the constitution of India, to issue a Writ of Mandamus directing the respondents to grant lease or rent to the petitioner for the vacant land of 378 Sq. ft. situate at S.No.28 behind the Compound wall of the building in door No.881 in Purasawalkam Village at High Road by fixing the amount of lease or rent on par with the lands situated next to the placed occupied by the petitioner].

For Appellant : Mrs.Hema Sampath

For respondent : Mrs.A.Arulmozhi

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order dated 21.12.2001 made in W.P.No.25710 of 2001, in and by which, the learned single Judge, permitted the writ petitioner to file a representation before the Assistant Commissioner, H.R. & C.E. Department, Chennai, and also directed the respondent that if any such representation is filed, taking note of the claim of the petitioner that he is in occupation from 1994, to consider and dispose of the same. Questioning the said order, the Executive Officer, Arulmigu Srinivasa Perumal Thirukoil, Egmore, Chennai, has filed the present appeal.

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2. Heard the learned counsel appearing for the appellant as well as the respondent.

3. The learned counsel appearing for the appellant-landlord contended that the impugned order was passed by the learned single Judge without hearing the temple and on this ground, the order has to be set aside. She further submitted that in view of the interim order dated 29.08.2003 in WAMP No.962 of 2002, steps have been taken and as on date, the respondent herein-writ petitioner is not in possession of the property in question.

4. On the other hand, Mrs.Arulmozhi, learned counsel appearing for the respondent, submitted that when the writ petition came up for hearing on 21.12.2001, on direction by the learned single Judge, Mr.G.Sukumaran, the then Special Government Pleader (HR & CE), on getting instruction from the temple, represented and on hearing both counsel, the learned single Judge has issued direction for disposal of the representation of the petitioner. Hence, according to her, there is no ground for interference. On specific instruction, the learned counsel for the respondent submitted that even today, the respondent is in occupation of the premises in question and she prays that necessary direction may be issued to the temple authorities for accepting his request and the respondent is willing to pay any reasonable rent that is being fixed by the temple-competent authority.

5. We have considered the contentions raised by both the counsel. It is brought to our notice by the learned counsel appearing for the respondent that on receipt of the notice dated 11.12.2000 issued by the temple, the respondent herein sent a detailed representation on 22.12.2000 itself mentioning several aspects. On perusal of the said representation, it shows that the place in question is a vacant site belonging to the temple and after reclamation, the respondent is continuing his possession in the premises by running a book stall and he wants to continue the same. He also conveyed his intention that he is willing to pay reasonable rent being paid by other lessees of the temple.

6. Inasmuch as the Special Government Pleader in-charge of HR & CE case took notice and represented the temple, we do not find any procedural flaw. In the same way, we are also of the view that the appellant-temple cannot contend that their stand was not projected before the learned single Judge.

7. Taking note of the information furnished in the representation of the respondent dated 22.12.2000, and of the fact that his request seems to be reasonable and acceptable, more particularly, beneficial to the temple, we are of the view that there is nothing wrong in considering the said representation dated 22.12.2000 or the subsequent representation, if any, on the orders of the learned single Judge.

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8. In view of the same, we direct the temple authority to consider the claim of the respondent-writ petitioner and pass appropriate orders, since the same is beneficial to the temple, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the temple-competent authority is free to fix reasonable rent for the area in question. While fixing the same, the authority is directed to consider the rent being paid by the other similarly placed lessees/tenants.

9. The writ appeal is disposed of on the above terms. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

raa

To

The Executive Officer,
Arulmigu Srinivasa Perumal
Thirukoil, Egmore, Chennai.
+ 1 CC To Mr. A.Arulmozhi, Advocate SR NO. 64849

W.A.No.479 of 2002

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